

Notice of Allowability

Application No.

09/447,400

Applicant(s)

CHEN ET AL.

Examiner

Kristie Shingles

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/12/2006.
2. ☒ The allowed claim(s) is/are 2-14.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>1/3/05</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |



RUPAL DHARIA

KDS/20060125

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Atty. Steven May on January 3rd, 2006.

The application has therefore been amended as follows:

- Please cancel Claim 1.

Response to Appeal Brief

2. This action is responsive to the Appeal Brief received on 1/12/2006; claims 1-14 are pending. Claim 1 has been cancelled in view of the allowability of Claims 2-14.

3. *Claims 2-14 are allowed.*

Reasons for Allowance

4. The following is the Examiner's statement of reasons for allowance:

The prior art or record fails to teach neither singly nor in combination, the claimed limitation of "grouping said plurality of servers into a plurality of server groups G0 through G2, wherein server groups G0 through G2 respectively have load levels progressively from a least amount of load level to a most amount of load level; calculating time periods T1 and T2, wherein said time period T2 is longer than said time period T1; assigning load to a server selected from a group of servers comprising said server group G0 from an initial time until expiration of said

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time period T1; determining another group of server comprising said group of servers that includes said server group G0 and further comprising said server group G1; assigning load to a server selected from said another group of servers after expiration of said time period T1; determining yet another group of servers comprising said group of servers that includes said another group of servers and further comprising said server group G2; and assigning load to a server selected from said yet another group of servers after expiration of said time period T2” as stated in Claims 2-14. Specifically, none of the prior art of record teaches the grouping said plurality of servers into a plurality of server groups G0 through G2, wherein server groups G0 through G2 respectively have load levels progressively from a least amount of load level to a most amount of load level and the assigning and reassigning of a server from groups G0 through G2 after the expiration of calculated time periods. This limitation, in conjunction with other limitations in the independent and dependent claims, is not specifically disclosed or suggested in the prior art of record. A review of Claims 2-14 in view of the Examiner's remarks above, indicates that Claims 2-14 are allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure: *Choquier et al* (US 5,951,694), *Nozaki* (US 6,128,644), *Davies et al* (US 6,003,083), *Bamforth et al* (US 6,470,394).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles
Examiner
Art Unit 2141

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